

REMARKS**Claim Amendments**

Claims 40, 65, 69, 70, 74, 75, 77, 79, 80, 82, 84, 85, 87 and 88 are amended to remove the phrase “patient-specific”. Claims 40, 77, 87, and 88 are also amended to remove the phrase “a digital model of the patient-specific” apparatus or scaffold. Support for these amendments is found in the application as filed, for example, at page 19, lines 8-14 page 20, lines 12-14, and page 25 line 8 through page 26, line 11.

Claims 65 and 82 are also amended to recite “comprises”. Support for this amendment is found in the application as filed, for example, at page 25, lines 8-10.

Claims 40, 65, 77, 82, 87 and 88 are also amended to recite *inter alia* “a consistent pore size in the scaffold”. Support for this amendment is found in the application as filed, for example, at page 30, lines 4-5, page 46, lines 11-12, and Figures 3 and 4.

Entry of the amendments is respectfully requested.

Summary of Telephonic Interview

Applicants’ representatives thank the Examiner for the telephonic interview on April 19, 2011. Applicants’ invention, the scope of the claims and the previously cited references were discussed. The Examiner invited Applicants to submit a Supplemental Amendment.

Supplemental Comments on the Rejection of Claims 40, 43, 59, 60, 65 and 66 Under 35**U.S.C. § 102(a)**

In the office action mailed from the U.S. Patent and Trademark Office on November 12, 2009, Claims 40, 43, 59, 60, 65 and 66 were rejected under 35 U.S.C. § 102(a) as being anticipated by Hutmacher *et al.* (“Design and Fabrication of a 3D Scaffold for Tissue Engineering Bone” as published in Agrawal *et al.*, Eds. *Synthetic Bioabsorbable Polymers for Implants*. ASTM, West Conshohocken, PA (2000) pp. 152-167).

Applicants response filed on April 8, 2010, included a Declaration Under 37 C.F.R. § 1.132 by the inventors of the present application which evidenced the Hutmacher *et al.* reference as describing Applicants’ own work. The Declaration Under 37 C.F.R. § 1.132 was signed by all inventors except Iwan Zein, who is unavailable. A Petition Under 37 C.F.R. § 1.183 requesting

waiver of signature of the Declaration by an unavailable inventor was granted by the Office of Petitions (Decision on Petition mailed on January 31, 2011).

It has come to Applicants' attention from Applicants' related Divisional application (U.S. Application No.: 10/828,467 (the "'467 Divisional application"; Attorney docket no. 4459.1006-000), that the inventors of the present application include two inventors, Kim Cheng Tan and Kock Fye Tam, who were not listed as authors of the Hutmacher *et al.* reference. As such, the Examiner in Applicants' related '467 Divisional application asserts that the Hutmacher *et al.* reference qualifies as prior art by "another".

While Applicants are unclear on the basis in case law for this position, Applicants would like to bring this information to the Examiner's attention for the present application.

Supplemental Information Disclosure Statement

A Supplemental Information Disclosure Statement (SIDS) is being filed concurrently herewith. Supplemental Information Disclosure Statements (SIDSs) were also filed on April 8, 2010, May 19, 2010, October 28, 2010, and April 1, 2011. Entry of all the SIDSs is respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By /Vivien J. Tannoch-Magin, Reg. No. 56120/

Vivien J. Tannoch-Magin

Registration No. 56,120

Telephone: (978) 341-0036

Facsimile: (978) 341-0136

Concord, MA 01742-9133

Date: April 21, 2011